enlarge the scope of such recovery, for recent cases have allowed a recovery where deceased was plaintiff's (1) daughter-in-law, *Bennett* v. *W. U. Tel. Co.*, 128 N. C. 103, 38 S. E. 294; (2) second cousin, *Hunter* v. *W. U. Tel. Co.*, 135 N. C. 458, 47 S. E. 745; (3) grandchild, *W. U. Tel. Co.* v. *Crocker*, 135 Ala. 492, 33 So. 45; *W. U. Tel. Co.* v. *Porterfield*, 84 S. W. (Tex. Civ. App.) 850.

DEEDS—JOINDER OF INFANT HUSBAND.—The original grantor, a married woman, conveyed her separate estate and her husband did not join in the deed. Such deed was given to provide necessaries for herself and child and at the time it was executed her husband was a minor. An action was brought by the heirs in trespass to try title. *Held*, that the deed was void under a statute providing merely that a deed of a married woman signed by herself and husband and properly acknowleged shall pass the title to the wife's separate property. *Zimpleman et al.* v. *Portwood et al.* (1908), — Tex. Civ. App. —, 107 S. W. Rep. 584.

The court reasons that the necessity for the joinder of the husband in the execution is not affected by reason of his being a minor. The infant husband has all the marital rights and the wife is entitled to the same protection and safeguards as the wife of an adult. In *Tippett* v. *Brooks*, 28 Tex. Civ. App. 107, it was decided that a conveyance of a married woman, altho a minor, joined in by her minor husband, was valid on the ground that marriage worked an emancipation from the disability of minority. And so by inference from this case, the husband must join. This decision might be questioned, as most states hold such a conveyance voidable. *Scranton* v. *Stewart*, 52 Ind. 68; *Webb* v. *Hall*, 35 Me. 336; *Dixon* v. *Merritt*, 21 Minn. 196; *Card* v. *Patterson*, 5 Ohio St. 320; *Bool* v. *Mix*, 17 Wend. (N. Y.) 119. However, there are statutes in some of the states providing that under certain circumstances, where it is impossible to obtain the joinder of the husband, the wife may convey as a feme sole. Thus where the husband is insane, *Hadaway* v. *Smith*, 71 Md. 319. Or where the husband has abandoned or separated from the wife or is a non-resident. *Knight* v. *Coleman*, 117 Ala. 266; *Curry* v. *Simpson*, 72 Vt. 232. For further discussion of the different classes of statutes reviewing joinder or assent, see 6 MICH. LAW REV. 429.

DIVORCE—TEMPORARY ALIMONY AND COUNSEL FEES—APPEAL—DECISIONS REVIEWABLE.—P. had sued D. for a divorce. During the trial, the court granted an order allowing P. temporary alimony and counsel fees, pendente lite. From this order D. appealed. On motion to dismiss this appeal, *held*, that an order allowing temporary support, or alimony and counsel fees pending the litigation is appealable. *Messervy* v. *Messervy* (1908), — S. C. —, 60 S. E. Rep. 692.

As to whether an order for alimony, pendente lite, is appealable, see *Hecht* v. *Hecht*, 28 Ark. 92, in which case the court held that since an order of this nature is discretionary with the court, it will be interfered with, only upon the clearest proof that there has been an abuse of such discretion, and where such abuse affects the rights of one of the parties he may appeal. A similar holding is found in the case of *Stiehm* v. *Stiehm*, 69 Minn. 461, 72 N.

W. 708. That an order for alimony is subject to appeal, because it partakes of the nature of a final judgment, see *Glenn* v. *Glenn,* 44 Ark. 46; *Sharon* v. *Sharon,* 67 Cal. 185, 7 Pac. 456, however, in this case there was a strong dissenting opinion by one of the justices. *Lochnane* v. *Lochnane,* 78 Ky. 467; *Borckman's Appeal,* 2 Walk. (Pa.) 285. In the following cases it was held that an appeal from an order of this nature would lie, the question as to whether the order was final or interlocutory, not being raised. *Foss* v. *Foss,* 100 Ill. 576; *Schuster* v. *Schuster,* 84 Minn. 403, 87 N. W. 1014; *Leslie* v. *Leslie,* 6 Abb. Prac. (N. S.) 193; *Schonwald* v. *Schonwald,* 62 N. C. (Phil. Eq.) 215; *Barker* v. *Barker,* 136 N. C. 316, 48 S. E. 733; *Moore* v. *Moore,* 130 N. C. 333, 41 S. E. 943. The above decisions all holding that an appeal will lie from an order of this nature, it seems that the principal case was decided according to the weight of authority. But the courts in some of the states hold that an order allowing alimony pendente lite is interlocutory and not final, and is, therefore, not subject to appeal. See *Wyatt* v. *Wyatt,* 2 Idaho 219, 10 Pac. 228; *Earls* v. *Earls,* 26 Kan. 178; *Malony* v. *Malony,* 9 Rob. (La.) 116; *Chappell* v. *Chappell,* 82 Md. 647, 33 Atl. 650; *Lapham* v. *Lapham,* 40 Mich. 527. *Cooper* v. *Mayhew,* 40 Mich. 528; *Abbey* v. *Abbey,* 6 How. Prac. (N. Y.) 189; *Moncrief* v. *Moncrief,* 10 Abb. Prac. (N. Y.) 315; *Earp* v. *Earp,* 54 N. C. (1 Jones Eq.) 118. In *Moncrief* v. *Moncrief* (supra), an appeal was not allowed, because if the husband could, by appeal, stay the proceedings, he could render nugatory the statute which authorizes alimony pendente lite, and the wife might, during the trial, be starved into submission. But in *Leslie* v. *Leslie* (supra), the appeal was allowed on the ground that an order granting alimony pendente lite affected a substantial right of one of the parties for which an appeal is given by the code. In *Earp* v. *Earp* (supra), it was held that an appeal would defeat the benevolent purpose of the statute allowing alimony pendente lite. However, this decision is no longer an authority in North Carolina as an appeal is allowed by the revised code. See *Schonwald* v. *Schonwald* (supra).

EQUITY—SWORN ANSWERS AS EVIDENCE—PROOF TO OVERCOME.—Sworn answers were filed to the interrogatories in a bill charging fraud and conspiracy. It was held that, although not contradicted by the testimony of any positive witness, the answers were sufficiently outweighed by the documentary evidence in the record and the circumstances of the case. *Snow et al.* v. *Hazlewood et al.* (1908), — C. C. A. 5th Cir. —, 157 Fed. Rep. 898.

SHELBY, J., in dissenting, said that "when the bill calls for answers under oath, and it is answered accordingly, the matters inquired about being within the personal knowledge of the respondent, the denials of the answer must be overcome by the evidence of two witnesses, or by one witness corroborated by circumstances which are equivalent in weight to another witness." There is no doubt that the rule is generally so stated. In this form it means to have its derivation in the maxim of the Roman civil law—Responsio unius non omnino audiatur. In *Clark* v. *Van Riemsdyk* (1815), 9 Cranch 153, cited in the principal case, Marshall points out, however, that there may be circumstances sufficient in themselves to outweigh even the answer of a defendant who